The Minutes

March 21, 2005

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Raye, Associate Justice; Morrison, Associate Justice; and Guzman, Bailiff.

C044075 THE PEOPLE v. DUTRA

Cause called. Cynthia A. Thomas, court appointed counsel, argued for appellant and submitted additional citations. Catherine G. Tennant, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:48 a.m., the court recessed. At 9:51 a.m., the court reconvened with Blease, Associate Justice; Raye, Associate Justice; and Hull, Associate Justice.

C046046 ASSOCIATION OF CALIFORNIA STATE ATTORNEYS AND ADMINISTRATIVE LAW JUDGES v. CALIFORNIA DEPARTMENT OF EDUCATION et al.

Cause called. Steven B. Bassoff argued for appellant. Gregory Rousseve argued for respondents, Department of Education. Charity Kenyon argued for respondents, University of the Pacific. Cause submitted.

At 10:14 a.m., the court recessed. At 10:19 a.m., the court reconvened with Blease, Associate Justice; Hull, Associate Justice; and Butz, Associate Justice.

C044914 BARDIS et al. v. OATES

Cause called. Brendan J. Begley argued for appellant. Port J. Parker argued for respondents. Cause submitted.

At 10:51 a.m., the court recessed. At 2:01 p.m., the court reconvened with Davis, Associate Justice; Raye, Associate Justice; and Butz, Associate Justice.

C042839 THE PEOPLE v. NEIDINGER

Cause called. Victor S. Haltom argued for appellant. David Andrew Eldridge, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:28 p.m., the court recessed until 9:30 a.m., Tuesday, March 22, 2005.

The Minutes

March 21, 2005, continued

C042668 JOHNSON et al. v. SIERRA TERRA, INC., et al. C043128 JOHNSON et al. v. SIERRA TERRA, INC., et al.

(Not for Publication)

The judgment is affirmed. The order taxing costs is reversed with directions to the trial court to reconsider and enter a new order consistent with this opinion. Johnson shall pay Sierra's costs of the appeal and the consolidated cross-appeal. (Cal. Rules of Court, rule 27(a).)

MORRISON, J.

We Concur: Sims, Acting P.J.

Raye, J.

C046823 WILKES et al. v. WILKES

(Not for Publication)

The protective order issued against Craig on April 6, 2004, is dissolved. Each party shall bear their own costs on appeal. (Cal. Rules of Court, rule 27(a) (4).)

CANTIL-SAKAUYE, J.

We Concur: Sims, Acting P.J.

Butz, J.

C045832 In re JESSIE J.; THE PEOPLE v. JESSIE J.

(Not for Publication)

The judgment is affirmed.

BUTZ, J.

We Concur: Davis, Acting P.J.

Robie, J.

C046751 THE PEOPLE v. MARTINEZ

BY THE COURT:

Appellant's petition for rehearing is denied.

ROBIE, J.

March 22, 2005

At 9:32 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Sims, Associate Justice; Nicholson, Associate Justice; Morrison, Associate Justice and Guzman, bailiff.

C045898 WALTRIP, et al v. KIMBERLIN, et al.

Cause called. Noreen E. McDermott argued for appellants. Dylan B. Carp argued for respondents. Cause submitted.

At 9:45 a.m., the court recessed until 9:30 a.m., Friday, March 25, 2005.

The Minutes

March 22, 2005, continued

C043901 THE PEOPLE v. KENDRICK (Not for Publication)

The judgment is affirmed.

DAVIS, J.

We Concur: Scotland, P.J.

Blease, J.

C043907 THE PEOPLE v. SMITS (Not for Publication)

The judgment is affirmed.

SIMS, J.

We Concur: Scotland, P.J.

Cantil-Sakauye, J.

C045860 THE PEOPLE v. WHEELER (CERTIFIED FOR PUBLICATION)

The judgment is affirmed. (CERTIFIED FOR PUBLICATION)

NICHOLSON, J.

We Concur: Scotland, P.J.

Davis, J.

C046233 THE PEOPLE v. GOODY (Not for Publication)

The order declaring the truck forfeited is vacated... The judgment is

affirmed in all other respects.

CANTIL-SAKAUYE, J.

We Concur: Scotland, P.J.

Sims, J.

C046449 THE PEOPLE v. STORY (Not for Publication)

The judgment is affirmed.

CANTIL-SAKAUYE, J.

We Concur: Scotland, P.J.

Davis, J.

C046990 THE PEOPLE v. REEDER (Not for Publication)

The judgment is affirmed.

SIMS, Acting P.J.

I concur: Hull, J.

I concur. I write separately only to point out that in support of her contention that Richmond's abusive nature should be deemed a mitigating

factor...

ROBIE, J.

The Minutes

March 22, 2005, continued

C047097 THE PEOPLE v. BASDEN (Not for Publication)

The judgment is reversed and the matter is remanded to the trial court for

further proceedings consistent with this opinion.

SIMS, J.

We Concur: Scotland, P.J.

Cantil-Sakauye, J.

C044989 SIERRA CLUB v. THE WEST SIDE IRRIGATION DISTRICT et al. and CITY OF

TRACY

C045015 SIERRA CLUB v. BANTA-CARBONA IRRIGATION DISTRICT et al. and CITY

OF TRACY (Not for Publication)

The judgment is affirmed. Costs on appeal are awarded to the Districts

and the City. (Cal. Rules of Court, rule 27(a).)

NICHOLSON, J.

We Concur: Davis, Acting P.J.

Robie, J.

C045175 CUMMINGS v. FUTURE NISSAN (Not for Publication)

The judgment is affirmed.

DAVIS. J.

We Concur: Blease, Acting P.J.

Nicholson, J.

C046212 ENTERCOM COMMUNICATIONS CORPORATION v. ROYCE

INTERNATIONAL BROADCASTING CORPORATION

(Not for Publication)

The September 8, 2003, order, denying the defense motion to tax costs, is affirmed. Plaintiff shall recover costs on appeal. (Cal. Rules of Court, rule 27.)

SIMS. J.

We Concur: Scotland, P.J.

Davis, J.

C046160 In re JOHN F.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND

HUMAN SERVICES v. JULIE G. et al. and JAMES T. et al.

(Not for Publication)

The orders are affirmed.

NICHOLSON, J.

We Concur: Scotland, P.J.

Raye, J.

The Minutes

March 22, 2005, continued

In re ANTHONY A.; CALAVERAS COUNTY WORKS AND HUMAN SERVICES AGENCY v. SHARON A. et al. and ANTHONY A.

(Not for Publication)

The order of the juvenile court dismissing the dependency petition is reversed, and the matter is remanded to the juvenile court for further proceedings consistent with this opinion.

SIMS. J.

We Concur: Scotland, P.J.

Cantil-Sakauye, J.

March 23, 2005

C045489 THE PEOPLE v. KNOWLES (Not for Publication)

The personal firearm enhancement associated with the conviction for transporting methamphetamine (Count 5) is reduced... As modified, the judgment is affirmed. The clerk of the trial court is directed to prepare an amended abstract of judgment and to deliver the amended abstract to the Department of Corrections.

NICHOLSON, J.

We concur, except as to Part X A, in which we concur in the result...

Scotland, P.J. Robie, J.

C045606 THE PEOPLE v. STODDARD (Not for Publication)

The judgment is affirmed.

SIMS, J.

We Concur: Scotland, P.J.

Cantil-Sakauye, J.

C046609 THE PEOPLE v. FISHER (Not for Publication)

The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy of the amended abstract of judgment to the Department of Corrections.

SIMS, J.

We Concur: Scotland, P.J.

Cantil-Sakauye, J.

C046891 THE PEOPLE v. WALSTON

(Not for Publication)

The judgment is affirmed.

CANTIL-SAKAUYE, J.

We Concur: Scotland, P.J.

Davis, J.

The Minutes

March 23, 2005, continued

C047086 THE PEOPLE v. LOVELESS (Not for Publication)

The judgment is affirmed.

DAVIS, J.

We Concur: Scotland, P.J.

Cantil-Sakauye, J.

C047411 THE PEOPLE v. SARGENT (Not for Publication)

The order denying defendant's application for a full hearing is affirmed.

BLEASE, Acting P.J.

We Concur: Nicholson, J.

Cantil-Sakauye, J.

C046126 SCHIEVELBEIN v. STATE PERSONNEL BOARD and DEPARTMENT OF

TRANSPORTATION (Not for Publication)

The judgment is affirmed.

DAVIS, J.

We Concur: Scotland, P.J.

Hull, J.

C046936 BROOKSIDE WEST OWNERS' ASSOCIATION v. MARTIN et al.

(Not for Publication)

The judgment is affirmed. Costs on appeal are awarded to defendants.

(Cal. Rules of Court, rule 27(a).)

NICHOLSON, Acting P.J.

We Concur: Raye, J.

Morrison, J.

C046996 BACH v. IELATI et al. (Not for Publication)

The judgment is affirmed. Costs on appeal are awarded to defendants.

(Cal. Rules of Court, rule 27(a).)

NICHOLSON, Acting P.J.

We Concur: Raye, J.

Morrison, J.

C047378 In re T.C.; EL DORADO COUNTY DEPARTMENT OF SOCIAL SERVICES v.

THOMAS C. et al. (Not for Publication)

The order terminating the parental rights of appellants is affirmed.

DAVIS, J.

We Concur: Scotland, P.J.

Cantil-Sakauve, J.

The Minutes

March 23, 2005, continued

C047717 In re ANNA A. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. ANN A. (Not for Publication)

The order terminating appellant's parental rights as to the four minors is affirmed.

BUTZ, J.

We Concur: Sims, Acting P.J.

Cantil-Sakauye, J.

March 24, 2005

C046084 THE PEOPLE v. PENILTON (Not for Publication)

The judgment is affirmed.

RAYE, Acting P.J.

We Concur: Morrison, J.

Butz, J.

C046770 THE PEOPLE v. WALKER (Not for Publication)

The judgment is affirmed. The trial court is directed to correct the abstract of judgment to show that the two-year concurrent sentence in count II is stayed and to forward a certified copy of the corrected abstract to the Department of Corrections.

CANTIL-SAKAUYE, J.

We Concur: Sims, Acting P.J.

Butz, J.

C044890 SMITH v. SVETICH (Not for Publication)

The judgment is affirmed. Costs on appeal are awarded to Svetich. (Cal.

Rules of Court, rule 27(a).)

NICHOLSON, J.

We Concur: Blease, Acting P.J.

Davis, J.

C046730 KLAMATH RIVER DEVELOPMENT CO. et al. v. KLAMATH RIVER COUNTRY ESTATES OWNERS ASSOCIATION, INC., et al.

(Not for Publication)

The judgment is affirmed. The Association shall recover costs on appeal.

(Cal. Rules of Court, rule 27(a).)

Raye, Acting P.J.

We Concur: Morrison, J.

Butz, J.

The Minutes

March 23, 2005, continued

C047217 In re K.K. et al.; SHASTA COUNTY DEPARTMENT OF SOCIAL SERVICES v. MICHAEL K. et al. (Not for Publication)

The orders terminating parental rights are affirmed.

NICHOLSON, J.

We Concur: Blease, Acting P.J.

Hull, J.

March 25, 2005

At 10:03 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Hull, Associate Justice; Butz, Associate Justice; and Rios, bailiff.

C045494 CALIFORNIA COMMISION ON PEACE OFFICER STANDARDS AND TRAINING v, THE SUPERIOR COURT OF SACRAMENTO COUNTY and LOS ANGELES TIMES COMMUNICATIONS LLC.

Cause called. Michael E. Whitaker, Deputy Attorney General, argued for petitioner. Rochelle L. Wilcox argued and submitted additional citations and Karlene W. Goller appeared only, for real party in interest. Cause submitted.

At 10:46 a.m., the court recessed. At 10:48 a.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Morrison, Associate Justice.

C046456 SEIFERT v. SEIFERT

Cause called. Michael F. Babitzke argued for appellant. Bradford J. Dozier argued for respondent. Cause submitted.

At 11:10 a.m., the court recessed. At 11:13 a.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Robie, Associate Justice.

C044942 THE PEOPLE v. REZAEI

Cause called. Eric S. Multhaup argued for appellant. Janine Busch, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:49 a.m., the court recessed. At 2:00 p.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Raye, Associate Justice.

The Minutes

March 25, 2005, continued

C048378 KNIGHT et al. v. THE SUPERIOR COURT OF SACRAMENTO COUNTY and SCHWARZENEGGER, as Governor, etc., et al.

Cause called. Robert H. Tyler argued for Alliance Defense Fund and Pungo, petitioners, and submitted additional citations. Rena M. Lindevaldsen argued for Liberty Counsel, petitioners. Kathleen A. Lynch, Deputy Attorney General, argued for Schwarzenegger et al., real parties in interest. David C. Codell argued ACLU Foundation, Lesbian & Gay Rights Project, real parties in interest. Cause submitted.

At 3:24 p.m., the court recessed until 9:30 a.m., Monday, March 28, 2005.

C038802 THE PEOPLE v. CARMONY

(CERTIFIED FOR PUBLICATION)

The judgment is reversed and the case is remanded back to the trial court for resentencing consistent with this opinion.

BLEASE, Acting P.J.

I Concur: Sims, J.

I concur with and join part II... but respectfully dissent as to part I... (CERTIFIED

FOR PUBLICATION.)

Nicholson, J.

C045843 THE PEOPLE v. QUESADA III

(Not for Publication)

The judgment is affirmed.

BLEASE, Acting P.J.

We Concur: Davis, J.

Butz, J.